

REMARKS

This Response and Amendment is in response to the Office Action mailed on December 3, 2003. Reconsideration of this application is respectfully requested.

Claim Amendments

Claim 35 has been amended to substantially include the limitations of Claims 38, 39 and 41.

Information Disclosure Statement

The Office Action failed to address Applicants' request and rationale set forth in the Response and Amendment filed on 29 September 2003 for consideration of the Information Disclosure Statement filed with this application on March 4, 2002. Consistent with the Office Action's failure to address the issue, initialed copies of the Forms PTO-1449 did not accompany the Office Action mailed on 3 December 2003. Consequently, to prompt a resolution of this outstanding and important issue, Applicants submit herewith a formal Petition for Consideration of Information Disclosure Statement.

Double Patenting

The Office Action objected to Claim 45 under 37 C.F.R. § 1.75 as being a substantial suppicate of Claim 34. To overcome this objection, Applicants have canceled Claim 45 without disclaimer or prejudice.

Claim Rejections

1. The Office Action rejected Claim 32 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. To overcome this rejection, Applicants have amended Claim 32 to properly depend from pending Claim 20.

2. The Office Action rejected Claim 1 and various claims dependent thereon under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 5,450,847 to Kampfe et al. ("the Kampfe patent"), U.S. Patent No. 5,515,851 to Goldstein ("the Goldstein patent") and U.S. Patent No. 4,854,324 to Hirschman et al. ("the Hirschman patent"). This rejection is respectfully traversed.

Claim 1 specifies, *inter alia*, an electronic interface and a hospital information system operably associated with the electronic interface. The Office Action admits that each of the Kampfe, Goldstein and Hirschman patents "does not expressly disclose the use of a hospital information system." Nevertheless, without reference to any teaching or suggestion in the prior art, the Office Action then asserts that the use of a hospital information system as a source of patient input data would have been a matter of design choice to a person of ordinary skill in the art. Applicants submit that the rejection of Claim 1 based on the stated rationale is an improper use of hindsight and otherwise not in accord with the current requirements for obviousness rejections under Section 103(a), as set forth by the federal courts.

A proper obviousness rejection requires that there be some suggestion or motivation in the prior art to arrive at an Applicant's claimed invention. The Applicant's

invention may not be used to provide the motivation or suggestion absent in the prior art. Otherwise, the Applicant's own teachings will be used against her, in the form of improper hindsight reconstruction of the invention, to now render obvious what was inscrutable prior to the Applicant's invention.

According to the Office Action, each of the prior art Kampfe, Goldstein and Hirschman patents discloses "an operator controlled input device for inputting parameters into the system." Even though the use of a hospital information system is not taught or suggested in the Kampfe, Goldstein and Hirschman patents, the Office Action then states that "[o]ne of ordinary skill in the art . . . would have expected Applicant's invention to perform equally well with either the operator controlled input device [of the Kampfe, Goldstein and Hirschman patents] for inputting parameters into the system or the claimed hospital information system" As shown in the above passage, the Office Action expressly uses Applicants' teachings to supplement the deficient teachings of the Kampfe, Goldstein and Hirschman patents to render obvious Applicants' own invention. This is improper hindsight.

Further, the Office Action asserts that Claim 1 "would have been an obvious matter of design choice . . . because Applicant has not disclosed that a hospital information system . . . provides an advantage, is used for a particular purpose, or solves a stated problem." The statement is not only incorrect, but Applicants submit that it is inapposite. First, Applicants submit that exemplary paragraphs 0034 and 0035 of the specification set forth an advantage, purpose and/or reason for using a hospital information system. Moreover, Applicants submit that an Applicant need not prove patentability by disclosing an advantage, purpose or problem-solving capability of a

claimed element of an invention when the prior art is silent as to the existence of that claimed element. Rather, the burden is placed on the Patent Office to set forth a *prima facie* case of obviousness based on a suggestion or motivation found in the prior art to arrive at the claimed invention.

For at least the above reasons, Applicants submit that the Kampfe patent, the Goldstein patent and the Hirschman patent do not render obvious the invention of Claim 1 and the claims dependent thereon, and that the rejection based thereon should be withdrawn.

3. The Office Action rejected Claim 20 and various claims dependent thereon under 35 U.S.C. § 103(a) as being unpatentable over the Kampfe patent or the Goldstein patent in view of U.S. Patent No. 5,472,403 to Cornacchia et al. ("the Cornacchia patent"). This rejection is respectfully traversed.

Claim 20 specifies, *inter alia*, a back-flow valve disposed in the fluid path and adapted to substantially prevent contaminants from the patient from migrating upstream through the fluid path to the pressurizing unit or the source of fluid medium.

As stated in the Office Action, the Kampfe and Goldstein patents do not disclose the use of a back-flow valve in the fluid path. Further, while the Cornacchia patent discloses a back flow valve 24, the valve is adapted "to prevent reflux of the radionuclide into the saline flush syringe 4." (Col. 4, lines 1-3). The Cornacchia patent is silent with regard to another back flow valve for the radionuclide syringe (i.e., to prevent contamination by the patient of the fluid paths 26, 25, 22, 18 and the syringe 2).

In the two fluid source injection system shown in Figure 1 of the Cornacchia patent, contaminants can flow from the patient through the fluid paths 26, 25, 22, 18 and into the syringe 2. The Cornacchia patent is thus clearly not concerned with patient contamination of the fluid paths and the syringe 2. Otherwise, the Cornacchia patent would have disclosed a back flow valve or other device in the fluid path leading to the syringe 2. Further, because the Cornacchia patent (like the Kampfe and Goldstein patents) is directed to a two fluid source system, which is distinct from the invention of Claim 20, a skilled artisan would not be taught or motivated by the Cornacchia patent to provide a back flow valve or similar device to prevent patient contamination of the fluid source or the pressurizing device (i.e., syringe 2). Rather, the Cornacchia patent merely suggests that, in a two fluid source system, a back flow valve could be used to prevent reflux of a fluid from one fluid source (i.e., syringe) into the fluid contained in another fluid source (i.e., syringe).

For at least the above reasons, Applicants submit that the proposed combination of the Kampfe patent or the Goldstein patent with the Cornacchia patent does not render obvious the invention of Claim 20 and the claims dependent thereon, and that the rejection based thereon should be withdrawn.

4. The Office Action rejected Claim 35 and various claims dependent thereon under 35 U.S.C. § 103(a) as being unpatentable over the Kampfe patent, the Hirschman patent or the Goldstein patent in view of U.S. Patent No. 5,053,002 to Barlow ("the Barlow patent"). This rejection is respectfully traversed.

Amended Claim 35 specifies, *inter alia*, an electronic interface and a hospital information system operably associated with the electronic interface. As presented above with respect to Claim 1, the Office Action admits that each of the Kampfe, Goldstein and Hirschman patents "does not expressly disclose the use of a hospital information system." Further, the Office Action does not cite the Barlow patent for the missing "hospital information system" teaching of the Kampfe, Goldstein and Hirschman patents.

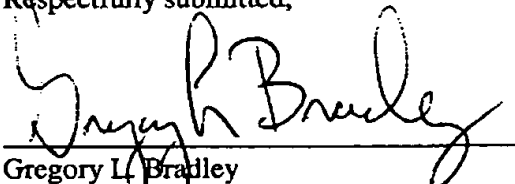
Therefore, for the reasons set forth above with respect to Claim 1, Applicants submit that the Kampfe, Goldstein, Hirschman and Barlow patents do not provide a suggestion or motivation to one of ordinary skill in the art to provide the "hospital information system" element of the invention of Claim 35, and that the rejection based thereon should be withdrawn.

Conclusion

In view of the foregoing amendments and remarks, Applicants submit that the application is now in condition for allowance. Reconsideration of this application is respectfully requested.

Dated: March 3, 2004

Respectfully submitted,



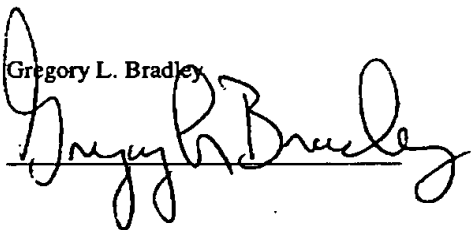
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I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being facsimile transmitted to Group 3700 of the Patent and Trademark Office (Fax No. 703-872-9306) on March 3, 2004.

Gregory L. Bradley

A handwritten signature in black ink, appearing to read "Gregory L. Bradley", written over a horizontal line.